

11.08.2025
Item No.17
Court No.11
KCP

MAT 746 of 2025
with
IA No. CAN 1 of 2025
with
IA No. CAN 2 of 2025

Animesh Majumdar
- Versus -
The State of West Bengal & Ors.

Mr. Robiul Islam,
Mr. Masooq Rahaman
...for the Appellant

Mr. Debnarayan Patra,
Mr. Sailendra Sekhar Bayard
...for the State Respondents

Mr. Ratul Biswas,
Mr. Kaushik Chowdhury
...for W.B.B.P.E.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee
...for D.P.S.C.

Mr. Avishek Prasad
...for the Respondent Nos.7 & 8

Affidavit-of-service, as filed, be kept on record.

As we have invited the learned advocates to advance their argument on merits of the matter, the delay in filing the present appeal is condoned and the application for condonation of delay being CAN 1 of 2025 is disposed of.

The present appeal has been preferred challenging an order dated 17th March, 2025 passed by the learned single Judge in the writ petition being WPA 1868 of 2025 which was preferred by the writ

petitioner/appellant, *inter alia*, praying for issuance of necessary directions upon the respondents to transfer him from Malda to Nadia considering his representations.

Mr. Islam, learned advocate appearing for the appellant submits that the appellant was initially appointed as an Assistant Teacher at Sikarpur Primary School in Farakka Circle in the district of Murshidabad on 28th November, 2002. His service was, thereafter, confirmed and subsequent thereto, he was transferred to Prantapally Primary School under English Bazar Urban Circle in the district of Malda and joined the said school on 29th November, 2017. The appellant has a minor child, who is residing with the appellant's ailing parents in the district of Nadia, which is about 536 kms away from his present school. In view of his posting at Malda it is an impossibility on his part to look after his parents and his minor son, who are residing in the district of Nadia. In the said conspectus, the appellant submitted an application for inter-council transfer in terms of Rule 8 of the West Bengal Primary Education (Transfer of Teachers including Head Teacher) Rules, 2002 (in short, the Transfer Rules) on 27th September, 2024. However, the respondents sat tight over the matter and did not dispose of the said representation. Aggrieved thereby, the appellant approached the writ court.

Mr. Islam submits that while considering the writ petition, the learned single Judge instead of relegating the matter to the appropriate authority for consideration observed, *inter alia*, that the grounds on which the appellant was praying for transfer were not convincing enough to entertain his prayer.

Mr. Islam submits that in view of such observations, the authorities who are yet to take a decision, would never allow the appellant's prayer for transfer.

Answering our query, Mr. Biswas, learned advocate appearing for the West Bengal Board of Primary Education submits that no final decision has yet been taken on the appellant's application for transfer dated 27th September, 2024.

Mr. Chattopadhyay, Mr. Prasad and Mr. Patra, learned advocates enter appearance on behalf of the District Primary School Council, Nadia, the District Primary School Council, Malda and the State respectively.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Under the Transfer Rules a detailed procedure has been provided towards consideration of an application for transfer submitted by a teacher. Admittedly, the appellant's application for transfer dated 27th

September, 2024 has not been considered as yet by the competent authority being the Secretary of the Board. As is customary in writ jurisdiction, the writ Court would, at the first instance, ordinarily not do the thing or render the decision that the executive functionary ought to do in the circumstances.

In view thereof, the order impugned in the present appeal is set aside and the respondent no.3 is directed to consider the appellant's application for transfer dated 27th September, 2024, strictly in consonance with the Transfer Rules and to take a decision, in accordance with law and communicate the same to the appellant.

The above exercise shall be completed by the respondent no.3 within a period of four weeks from the date of communication of this order.

With the above observations and directions, the appeal and the stay application are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)